

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 17, 18, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Whitehouse et al (US 4743265). Whitehouse discloses a catheter placement device comprising an elongate catheter member 20, a catheter handle 14, 16 secured to the catheter, and a platform 12 removable secured to the catheter handle. The platform has protruding stabilizers 30a,b. The platform is slidably secured to the catheter handle

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 17, 18, 20, 24-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraus et al (US 5687727) in view of Whitehouse et al.
5. Kraus discloses a catheter adaptor with slitting blade comprising an elongate catheter member having an outer member 51 and an inner member 46, the outer member being slidable with respect to the outer member. The handle includes a knob 31, slidable with respect to the handle, a cutter 25 attached to the knob and slidable relative to the handle and the outer member, the knob attached to the outer member, and the cutter configured to longitudinally dissect the outer member (Col. 3, lines 56-62, Col. 4, lines 60-63, Col. 5, lines 10-17).

6. Claim 17, 18, 20, 34, 39 differ from Kraus in calling for the device to comprise a platform removably secured to the catheter handle, the platform to comprise stabilizers, and the platform to be slidably secured to the catheter handle. Whitehouse teaches a catheter placement device comprising a catheter, and catheter handle having a platform 12 slidably attached, the platform having stabilizers 30a,b. This configuration allows for the catheter to be comfortably and securely attached to the patient. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Kraus to have a platform as taught by Whitehouse so that the device can be secured to the patient.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitehouse. Claim 19 differs from Whitehouse in calling for the lower surface of the platform to be curved. At the time the invention was made, it would have been an obvious matter of design choice to have a curved lower surface. Whitehouse discloses that the base member is to be attached to the patient's skin. It would have been obvious to one of ordinary skill in the art to form a platform that is to attach to a person's body to have a curved, or a pliable surface so that the device can easily conform to the surface to which it is to be attached. Therefore, it would have been prima facie obvious to modify the device of Whitehouse to obtain the invention as specified in claim 19 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art.

Response to Arguments

8. Applicant's arguments filed 1/21/08 have been fully considered but they are not persuasive.

9. Applicant argues that a rejection based on the Whitehouse disclosure was conceded by the previous examiner and the current examiner reasserted the same rejection. This is a blatant mischaracterization of the rejection. Upon close inspection of the instant application and the Whitehouse disclosure, the examiner believes that the Whitehouse disclosure anticipates the instant application. However, the rejection is not merely a reassertion of a previous rejection. New combinations were made using different references. Even if it were a reassertion of an old rejection, the examiner is not bound by actions taken by a previous examiner. In response to applicant's assertion that the examiner is circumventing the prosecution history, the examiner thoroughly responded to arguments submitted in the appeal brief with regard to the Whitehouse disclosure in an effort to respond to the entire prosecution history as clearly stated in the previous rejection. Applicant is of course welcome to raise the fact that the previous examiner conceded the rejection in an appeal, however, the current examiner believes that it is irrelevant to any future decisions regarding the instant application.

10. Applicant argues that the Whitehouse reference does not disclose the handles being removably secured to the platform. Applicant points to Fig. 6B to illustrate this point. The examiner believes that Fig. 6B illustrates the "removable" component of the "removably secured" limitation. It does appear as though if one were to squeeze the handles toward each other they would become detached from the platform. As the examiner stated in the previous

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action, if one were to grasp the handles in the configuration as seen in Fig. 6A and lift directly up, not squeezing inwardly, they would in fact be attached to the platform.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA A. BOUCHELLE whose telephone number is (571)272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Art Unit 3763

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